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AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 2717*

House Bill No. 2768

by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section _____. Tennessee Code Annotated, Title 62, Chapter 38, is amended by adding the following as a new part:

62-38-__1. As used in this part, unless the context otherwise requires:

(1) "Client" means any person desiring to receive a body piercing;

(2) "Body piercing" means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. "Body piercing" does not include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear;

(3) "Body piercing technician" means any person, regardless of age, who engages in the practice/service of body piercing for consideration;

(4) "Body piercing technician registration" means the issuance of a state license authorizing the person named therein to engage in the practice/service of body piercing in the state of Tennessee after fulfilling the requirements in this part;

(5) "Body piercing operator" means any person who controls, operates, conducts or manages any body piercing studio, whether actually engaging in body piercing or not;

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(6) "Body piercing studio" means any room or space where body piercing is practiced or where the service of body piercing is conducted;

(7) "Body piercing studio certificate" means the issuance of a written license, issued by the local county health department, to a body piercing studio stating that such studio, after inspection, was found to be in compliance with this part; and

(8) "Universal precautions" means that all blood and body fluids are treated as to contain all bloodborne pathogens and taking proper precautions to prevent the spread of any bloodborne pathogens.

62-38-__2.

(a) No person shall operate a body piercing studio unless such person is registered with the state as an operator or as a technician, and the studio has been issued a studio certificate by the local health department. No studio certificate shall be issued or renewed unless the studio has been inspected and found to be in compliance by the local health department. A fee of fifty dollars (\$50.00) shall be submitted annually to the local health department along with an application for renewal of a studio certificate.

(b) A studio certificate shall expire on December 31 of each year.

(c) The local health department shall inspect each body piercing studio a minimum of two (2) times per year to ensure compliance with this part.

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(d) Body piercing studio violations shall be classified into two (2) categories: critical and minor. Body piercing studios found to have critical violations shall be subject to a one hundred dollar (\$100) civil penalty and, if deemed necessary, the immediate shutdown of such body piercing studio. Re-inspection for a critical violation shall be within seven (7) days, at which time the body piercing studio may be re-opened if such studio is found to be in compliance. If three (3) critical violations are committed within the period of one (1) year (calendar or otherwise), the body piercing studio's certificate may be revoked.

(e) Minor violations mean all other violations of this part. Body piercing studios with minor violations shall be subject to a twenty-five dollar (\$25.00) civil penalty, and shall have fourteen (14) days to address and correct such violations. Re-inspection for a minor violation shall be at the discretion of the local health department.

(f) A violation may be reviewed by the local health department upon written request of the person or studio committing such violation. A request for review by the local health department shall be made in writing within ten (10) days of receipt of notification of such violation. The local health department should respond to this review within fourteen (14) days.

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(g) Critical violations shall include violations which present a significant or serious threat to the health or safety of clients or the public. The commissioner of health may define specific violations by rule.

(h) In all instances of violations, the local health department shall give written notice to the body piercing operator specifying the violations and measures that are necessary to correct such violations. A copy of this notice/inspection sheet shall be signed by the studio and retained by the local health department. Payment of all registrations, fees, or fines shall be payable to the local health department having jurisdiction for administrative costs.

(i) Any studio which is engaged in the practice of body piercing on October 1, 1998, shall submit an application for a license within thirty (30) days of October 1, 1998.

62-38-__3.

(a) Before a permit to operate a body piercing establishment is granted, the local health department or its duly authorized agent shall inspect the premises in which the business is to be conducted. If the condition of the premises or its equipment does not conform to the requirements of this part, the local health department shall refuse to issue a permit. If the body piercing establishment conforms to the requirements of this part, the local health department or its duly authorized agent shall issue the permit requested.

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(b) Each studio where body piercings are administered shall provide a work area separate from any observers present. No smoking or eating shall take place in the body piercing work area. Clients shall be pierced only while in the work area.

(c) Adequate restroom facilities for clients and operators shall be provided within each studio.

(d) A sink with hot and cold running water for handwashing and sterilization, other than a bathroom sink, shall be provided. Sinks shall be equipped with an antibacterial solution and single use towels.

(e) All waste products shall be disposed of in accordance with universal precaution guidelines. All needles or other sharp instruments shall be segregated from other wastes and placed in an approved sharps container.

(f) All furniture and fixtures necessary to the practice of body piercing shall be provided and constructed to ensure adequate cleaning and sanitation. Adequate lighting and ventilation shall be provided in the body piercing studio. Equipment necessary to provide for proper aseptic techniques and sterilization shall be provided. Floors, ceilings, walls and restrooms shall be maintained in a sanitary condition. Studio and equipment shall be maintained in good repair and the premises shall be kept clean, neat and free of litter and rubbish.

62-38-__4.

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(a) No person shall engage in the practice of body piercing for consideration or act as a body piercing technician unless such person has registered as a body piercing technician with the department of health. A statewide body piercing technician license shall be issued and is transferable, within the state of Tennessee, to any studio holding a current studio certificate issued by a local health department. The department of health may, at its option, direct the local health department to act in its behalf in the application, examination, collection of funds, etc., concerning body piercing technician registration.

(b) No holder of a studio certificate issued under this part shall allow a body piercing technician to engage in body piercing unless the body piercing technician:

- (1) Currently holds a body piercing technician registration;
- (2) Has applied for a fourteen-day temporary registration; or
- (3) Has an apprentice technician license.

(c) Any person desiring to engage in the practice of body piercing shall submit an application to the department of health or its designee. There shall be three (3) types of body piercing technician licenses: body piercing technician, apprentice technician, and temporary technician. All body piercing technician and apprentice technician registrations shall expire on December 31 of each year. A

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fee of fifty dollars (\$50.00) shall be submitted to the department of health for each individual technician license.

(d) All body piercing shall be under the auspices of a body piercing studio holding a current studio certificate issued by the local health department.

(e) Each body piercing operator or body piercing technician shall, before receiving a permit to operate a body piercing establishment or to practice body piercing, undergo a training program to include:

(A) A local or state health department program;

(B) A course approved by the local health department in methods and techniques for the proper sterilization of instruments and materials used in body piercing; or

(C) Present acceptable evidence of having satisfactorily completed a course of instruction in sterilization techniques and methods from a college/medical sterilization course.

(f) The body piercing operator and/or body piercing technician shall be required to take and pass an examination concerning the provisions of this part before a body piercing technician permit shall be issued. Such examination shall be a written examination prescribed by the local health department. After passing such examination and complying with the other provisions of this part, a license shall be issued.

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(g) In order to receive a body piercing technician license, the technician shall be trained in the profession of body piercing to include sterilization methods in a certified shop for at least one (1) year, under a currently licensed body piercing technician who has been certified and operating in compliance with applicable laws in Tennessee for not less than three (3) years. Out of state body piercing technicians must be able to show proof of at least two (2) years' experience as a professional body piercing technician in another state (business licenses, tax records, etc., may be used to show proof of prior work). Technicians currently in business in Tennessee on October 1, 1998, shall be exempt from the provisions of this subsection.

(h) An apprentice technician license shall be issued if a technician is unable to comply with any of the provisions of this part. A technician shall remain an apprentice technician until all qualifications or provisions of this part have been met.

(i) A body piercing operator shall, unless registered as a body piercing technician, register with the department of health and shall comply with all provisions of this part, except for subsection (g). The fee for such registration shall be twenty-five dollars (\$25.00), payable to the department.

(j) To renew a license as a body piercing technician, an applicant shall submit a fee of fifty dollars (\$50.00) before the expiration of such license.

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(k) A penalty of twenty-five dollars (\$25.00) shall be imposed upon each late renewal of licensure. No late renewal of licensure shall be accepted more than one (1) year after the expiration of such licensure.

(l) An applicant whose license has expired for more than one (1) year must re-apply for licensure pursuant to subsection (g).

62-38-__5. It is the duty of the owner or operator of a body piercing establishment to post the current studio certificate permit in a conspicuous place where it may be readily observed by the public.

62-38-__6.

(a) A record showing the date of a client's visit, the client's name, with the client's signature, address and age, part of the body which is pierced, its location on the client's body and the name of the body piercing technician who performed the service shall be maintained by body piercing studios for two (2) years.

(b) A minor sixteen (16) years of age or older may undergo body piercing with the written consent of the parent or legal guardian. A parent or legal guardian of such minor must be present during the procedure.

(c) Records shall be entered in ink and shall be made available to the local health department upon request, at a reasonable time, for examination.

(d) Clients receiving body piercing shall attest to the fact that they are not under the influence of drugs or alcohol.

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(e) Printed instructions on the care of skin shall be given to each client after body piercing and a copy of such instructions shall be posted in a conspicuous place in the body piercing studio.

(f) Except as provided in subsection (b), it is a Class C misdemeanor to body pierce a person under eighteen (18) years of age.

62-38-__7. Violation for operating without a permit or with a revoked or suspended permit.

Any person who does not obtain a permit as required in § 62-38-__2 or whose permit has been revoked or suspended and who continues to perform body piercings or operate a body piercing establishment commits a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

62-38-__8. Local regulations superseded - Applicability to physicians.

(a) This part shall supersede all county and local regulations concerning body piercing to give uniformity in compliance within this state.

(b) This part does not apply to any physician or any person under the supervision of a physician who is licensed to practice medicine in this state.

62-38-__9. The commissioner is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

62-38-_10. This part shall take effect on October 1, 1998.

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